

Application to register land at Fountain Walk, Northfleet as a new Town or Village Green

A report by the Director of Environment and Waste to Kent County Council's Regulation Committee Member Panel on Monday 16th November 2009.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land at Fountain Walk, Northfleet has not been accepted.

Local Members: Mr. L. Christie and Mr. H. Craske

Unrestricted item

Introduction

1. The County Council has received an application to register land at Fountain Walk, Northfleet as a new Town or Village Green from local resident Mr. S. Baker ("the applicant"). The application, dated 10th June 2008, was allocated the application number VGA602. A plan of the site is shown at **Appendix A** to this report and a copy of the application form is attached at **Appendix B**.

Procedure

2. The application has been made under section 15(1) of the Commons Act 2006 and regulation 3 of the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007. These regulations have, since 1st October 2008, been superseded by the Commons Registration (England) Regulations 2008 which apply only in relation to seven 'pilot implementation areas' in England (of which Kent is one). The legal tests and process for determining applications remain substantially the same.
3. Section 15 of the Commons Act 2006 enables any person to apply to a Commons Registration Authority to register land as a Town or Village Green where it can be shown that:
'a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
4. In addition to the above, the application must meet one of the following tests:
 - **Use of the land has continued** 'as of right' until at least the date of application (section 15(2) of the Act); or
 - **Use of the land 'as of right' ended no more than two years prior to the date of application**, e.g. by way of the erection of fencing or a notice (section 15(3) of the Act); or
 - **Use of the land 'as of right' ended before 6th April 2007** and the application has been made within five years of the date the use 'as of right' ended (section 15(4) of the Act).
5. As a standard procedure set out in the regulations, the County Council must notify the owners of the land, every local authority and any other known interested

persons. It must also publicise the application in a newspaper circulating in the local area and place a copy of the notice on the County Council's website. In addition, as a matter of best practice rather than legal requirement, the County Council also places copies of the notice on site to provide local people with the opportunity to comment on the application. The publicity must state a period of at least six weeks during which objections and representations can be made.

The application site

6. The area of land subject to this application ("the application site") consists of a rectangular piece of land of approximately 770 square metres situated at Fountain Walk in Northfleet. The land is situated to the rear of the Chiltern House Garage (on London Road) and abuts the rear of properties in Fountain Walk. The application site consists of an area of grassed open space with trees.
7. Access to the application site has been via the paths which serve the Fountain Walk estate. However, since February 2007, the application site has been fenced off with close-boarded fencing and there has been no access to it from the Fountain Walk estate, although access is possible via a gap in the chain link fencing abutting the rear of Chiltern House Garage.

Background

8. Members should be aware that the application site forms part of a larger area of land that has been the subject of a planning application which proposes the re-development of the Chiltern House Garage into a three-storey development of 14 self-contained flats. According to the development plans, it is proposed that the application site be transformed into a car park and amenity space.
9. Planning Permission for the development was granted by Gravesham Borough Council in August 2008. However, work on the development has not yet begun pending the outcome of the Town or Village Green application. If the Town or Village Green application were to be successful, the effect would be to prevent the development of the application site, regardless of the planning permission, since Town or Village Green status confers special protection on the land which effectively prevents any form of development¹.
10. The planning background is provided for information only as it is not a relevant consideration for the purposes of determining an application for the registration of land as a Town or Village Green. Members should be guided solely by the legal tests specified in section 15(1) of the Commons Act 2006 which are set out at paragraph 17 below.

The case

11. The application has been made on the grounds that the application site has become a Town or Village Green by virtue of the actual use of the land by the local inhabitants for a range of recreational activities 'as of right' for more than 20 years.

¹ The Inclosure Act 1857 and the Commons Act 1876 make it an offence (amongst other things) to place any structures or materials upon a Village Green, or to do anything which interrupts the use and enjoyment of the Village Green as a place for recreation and enjoyment.

12. Included in the application were nine statements of use from local residents asserting that the application site has been available for free and uninhibited use for lawful sports and pastimes over the last twenty years and beyond. A summary of the user evidence is attached at **Appendix C**. Also submitted with the application were five letters of support and a petition containing 45 signatures.

Consultations

13. Consultations have been carried out as required. In response to the consultation, three further letters of support were received from local residents (one from the applicant and two from people who had previously submitted user evidence).

Landowner

14. An objection has been received from Vertex Law LLP on behalf of the landowner, Mr. R. Todd ("the landowner"). The objection is made primarily on the basis that on 26th March 1968, the former owners of the land, Chevron Oil (UK) Ltd, granted to the Northfleet Urban District Council a personal licence in respect of the land. Under this licence, the Urban District Council (now Gravesham Borough Council) undertook to '*use the land for the purpose of an open space only*'. The landowner contends that use of the land was therefore by virtue of a fully revocable licence and, as such, was not 'as of right'. A copy of the licence agreement is attached at **Appendix D**.
15. The landowner also refers to the presence of a 'no ball games' sign to regulate the activities that took place on the land, and expresses concerns regarding the sufficiency of use by the local residents.
16. Brenchley Homes Ltd ("the second objector") have also objected to the application on the basis that use of the application site has been referable to the licence agreement and has therefore not been 'as of right' for the required 20 year period.

Legal tests

17. In dealing with an application to register a new Town or Village Green the County Council must consider the following criteria:
- (a) *Whether use of the land has been 'as of right'?*
 - (b) *Whether use of the land has been for the purposes of lawful sports and pastimes?*
 - (c) *Whether use has been by a significant number of inhabitants of a particular locality, or a neighbourhood within a locality?*
 - (d) *Whether use has taken place over period of twenty years or more?*
 - (e) *Whether use of the land 'as of right' by the inhabitants has continued up until the date of application or meets one of the criteria set out in sections 15(3) or (4)?*

I shall now take each of these points and elaborate on them individually:

(a) Whether use of the land has been 'as of right'?

18. The definition of the phrase 'as of right' has been considered by the House of Lords. Following the judgement in the *Sunningwell*² case, it is considered that if a person uses the land for a required period of time without force, secrecy or permission (*nec vi, nec clam, nec precario*), and the landowner does not stop him or advertise the fact that he has no right to be there, then rights are acquired and further use becomes 'as of right'.

...without force...

19. In this case, there is no evidence of any of the users ever having been verbally challenged or physically prevented from gaining access to the land. The existence of the licence agreement which refers to the land being used as an open space is good evidence that use of the land has not been challenged by the landowner. In fact, there is a positive inference that the tenants of Fountain Walk have actually contributed towards the maintenance of the land as part of their rental payments to the Borough Council³.

20. The concept of force in relation to 'as of right' is not restricted to physical barriers or challenges to use. If a person repeatedly ignores a notice which clearly indicates that they do not have the right to enter the land, then their use may be considered to be with force.

21. In this case, there is there no evidence to suggest that there have been any prohibitive notices on the land, other than the 'no ball games' signs to which reference is made by the landowner and by one of the witnesses⁴. The effect of the signs was simply to restrict the playing of ball games (presumably to prevent nuisance to neighbouring properties) and not to prevent use of the application site by local residents for other lawful sports or pastimes. There is no evidence that the signs were put there as a result of local byelaws or that they were legally enforceable.

...without secrecy...

22. There is no evidence that use of the application site has been with secrecy. In addition to recreational use by the local residents, residents meetings have been held openly on the site during summer months and residents have also tended the planted areas. The Borough Council has also regularly maintained the site for use by the local residents and mown the grass to facilitate such use.

² *R v. Oxfordshire County Council and another, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

³ Part 11 of the application form states "residents requested the Council supply landscaping which the Council supplied from the gardening fund which the residents pay into". In his letter of support, Mr. Hurstfield states that "the residents have paid for the upkeep of the area to the local Council and is part of the rent paid for the accommodation". In his user evidence form, Mr. Eldridge states "throughout the time living here, I along with other residents have paid the Council to have the area of grass cut and boundaries kept planted and tidy".

⁴ In her user evidence form, Mrs. Millins states that "the Council provided 'no ball games' [signs] and a dog litter bin in 1997 and 2003".

...without permission...

23. The key issue in this case concerns the third limb of the 'as of right' concept: permission. Permission in this context can take various forms. It can be express or implied, and it may or may not be communicated to the recreational users of the land.
24. In this case, it is common ground between the parties that there has existed a licence agreement in respect of the application site. The agreement is dated 26th March 1968 and was made between the then owner, Chevron Oil (UK) Ltd, and the then Northfleet Urban District Council (now Gravesham Borough Council). It provides that licence is to be revocable at any time, that the Council is to be responsible for all outgoings in respect of the land, and that the land is to be used as an open space only. A copy of the agreement is attached at **Appendix D**.
25. It is not clear when the licence came to an end. The landowner states that the licence '*came to an end not later than February 2007, when the land was fenced...*'. The second objector states that '*the licence was not extended when Ray Todd purchased the site on 21st August 1992*'. The applicant states that '*these arrangements continued when the land was acquired by Chiltern House Garage*'.
26. When Mr. Todd purchased the site in 1992, he was under no legal obligation to continue with the licence since the agreement had been between the previous landowner and the Council. However, by his conduct in continuing to allow the local residents to use the land as an open space, it is possible that Mr. Todd effectively renewed the licence.
27. It is not necessary for the purposes of the Town or Village Green application to arrive at a conclusion as to the exact date of termination of the licence. What matters is whether the licence was in force *at any point* during the relevant twenty year period (i.e. the twenty years immediately preceding the erection of the fence in February 2007). For the application to succeed, use of the land by the local residents must have been 'as of right' throughout the whole of the twenty year period.
28. On the supposition that the licence did end in 1992 (although there is no positive evidence to suggest that it did not continue until 2007), use of the land during the five-year period 1987 to 1992 would have been pursuant to an express licence granted on a revocable basis by the then landowner, Chevron Oil (UK) Ltd.
29. The issue of a licence in relation to Town or Village Green registration was considered in the case of *Ind Coope*⁵ where the Council registered a piece of land which was the subject of a licence agreement between the Council and the landowner for the use of the land as a children's playground and open area. The judge held that the land had been wrongly registered as a Village Green, stating that "*...if there is an express licence for the use of the land, then the land is used pursuant to that licence. There can be no question of a right being established... I find it impossible to form the view that the public, in some way or other, were capable of acquiring additional rights over and above the rights that the local District*

⁵ *R v Hereford and Worcester City Council ex parte Ind Coope (Oxford and West) Ltd.* (unreported)

Council possessed pursuant to the licence to make the land available for the purposes for which it was used...”.

30. The facts of this case are therefore very similar to the situation considered by the Courts in *Ind Coope*. In light of the decision of the Court in that case, it therefore must be concluded that the use of the land at Fountain Walk was as a result of the licence agreement for, at the very least, five years of the relevant twenty year period (if not during the whole period). Use was therefore not ‘as of right’ during the whole twenty year period.

(b) Whether use of the land has been for the purposes of lawful sports and pastimes?

31. Lawful sports and pastimes can be commonplace activities including dog walking, children playing, picnicking and kite-flying. It is not necessary to demonstrate that both sporting activities *and* pastimes have taken place since the phrase ‘lawful sports and pastimes’ has been interpreted by the Courts as being a single composite group rather than two separate classes of activities⁶.
32. Legal principle does not require that rights of this nature be limited to certain ancient pastimes (such as maypole dancing) or for organised sports or communal activities to have taken place. The Courts have held that ‘*dog walking and playing with children [are], in modern life, the kind of informal recreation which may be the main function of a village green*’⁷.
33. In this case, the evidence demonstrates that the land has been used for gardening, relaxing, socialising, dog-walking, playing with children and picnics. The table summarising evidence of use by local residents at **Appendix C** shows the full range of activities claimed to have taken place.
34. The landowner contends that not all of the activities listed in the application can properly be considered to be ‘lawful sports and pastimes’. It is suggested that just sitting on a bench or socialising with neighbours cannot be said to fall within the context of lawful sports and pastimes for the purposes of Town or Village Green registration. Whilst it is an arguable proposition, it is difficult to reach a conclusion on this since it is not a matter that has yet been before the Courts.
35. Some residents refer to using the land to walk to the shops and the Post Office. Such use is not a lawful sport or pastime and is likely to be referable to the use of the land as a convenient short-cut rather than constituting the type of recreational activities associated with the acquisition of Town or Village Green rights. It should therefore be disregarded when considering the user evidence as a whole.

⁶ *R v. Oxfordshire County Council and another, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

⁷ *R v Suffolk County Council, ex parte Steed* [1995] 70 P&CR 487 at 508 and approved by Lord Hoffman in *R v. Oxfordshire County Council and another, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

(c) Whether use has been by a significant number of inhabitants of a particular locality, or a neighbourhood within a locality?

36. In considering this issue, the starting point is to establish whether there is a relevant locality within which the users of the land reside. The definition of locality for the purposes of a Town or Village Green application has been the subject of much debate in the Courts and there is still no definite rule to be applied. In the *Cheltenham Builders*⁸ case, it was considered that ‘...at the very least, Parliament required the users of the land to be the inhabitants of somewhere that could sensibly be described as a locality... there has to be, in my judgement, a sufficiently cohesive entity which is capable of definition’. The judge later went on to suggest that this might mean that locality should normally constitute ‘some legally recognised administrative division of the county’. In another case, it was suggested that an ecclesiastical parish would be sufficient to constitute a relevant locality⁹.

37. Having established a relevant locality, it must be shown that a significant number of the residents of that locality must have used the land in question. The Courts have held that ‘significant’ in this context does not necessarily mean considerable or substantial: what matters is that the number of users has to be sufficient enough to indicate that ‘their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers’¹⁰ (the “sufficiency test”).

38. In some cases, it may be that the locality is too large and, as a result, it is not possible for the sufficiency test to be met. In such cases, it may be necessary to identify a relevant neighbourhood within a locality. This concept has also been considered by the Courts: ‘it is common ground that a neighbourhood need not be a recognised administrative unit. A housing estate might well be described in ordinary language as a neighbourhood... The registration authority have to be satisfied that the area alleged to be a neighbourhood has a sufficient degree of cohesiveness; otherwise the word “neighbourhood” would be stripped of any real meaning’¹¹.

‘locality’

39. In this case, all those who have submitted evidence in support of the application live in the properties on Fountain Walk. Fountain Walk is a housing estate and therefore would not constitute the type of legally recognised administrative area required to demonstrate a locality (although it be sufficient to indicate a neighbourhood – see paragraph 42 below).

40. The only area that could properly be described as a locality is the Borough Council ward of Northfleet North. As is shown on the map at **Appendix E**, this ward covers a very large area and has a population of over 6,700 people¹². The ecclesiastical parish of St. Boltoph, Northfleet covers an even larger area¹³.

⁸ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

⁹ *R (Laing Homes Ltd.) v Buckinghamshire County Council and another* [2003] 3 EGLR 70 at 83

¹⁰ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

¹¹ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 92

¹² The exact figure as at the 2001 census was 6,723

¹³ It covers the Borough Council ward of Northfleet North and encompasses part of Northfleet South ward and a small section of Painter’s Ash ward.

41. Both of these localities are too large to be able to demonstrate that a significant number of the residents have used the application site. It is therefore necessary to consider whether there is a relevant neighbourhood within a locality.

'neighbourhood'

42. As stated at paragraph 38 above, a housing estate can, in principle, constitute a neighbourhood for the purposes of Town or Village Green registration. It might therefore be suggested that Fountain Walk might reasonably be classed as a neighbourhood within the wider locality of the Borough Council Ward of Northfleet North.

43. However, it is also arguable that use of the land by eleven residents living in the immediate vicinity would not be sufficient to indicate to a landowner that the land was in general use by the local community.

44. In light of the fact that the use of the land was known to (and expressly approved by) the landowner, it is therefore not necessary to conclude on this matter.

(d) Whether use has taken place over period of twenty years or more?

45. In order to qualify for registration, it must be shown that the land in question has been used for a full period of twenty years. In this case, use 'as of right' ceased when the fencing was erected in February 2007 and as such the requisite period is 1987 to 2007.

46. From the user evidence submitted, there appears to have been use of the land over a considerable period dating back to the construction of the Fountain Walk estate in the late 1960s. The licence agreement is dated 26th March 1968 which indicates that the land has been available for use as an open space since that time. Neither the landowner nor the second objector have sought to challenge the proposition that the land has been used for a full period of twenty years, and neither has advanced any arguments that there has been a break in the continuity of such use.

47. Of the 11 people who have used the land (listed at **Appendix C**), five have used the land for the full 20 year period, one has used it for 17 years (since 1990) and the remaining five have used the land for six years or less.

48. Therefore, it can be concluded that use of the land has taken place over a period of over twenty years.

(e) Whether use of the land by the inhabitants is continuing up until the date of application or meets one of the criteria set out in sections 15(3) or (4)?

49. As set out in paragraph 4 above, use of the land 'as of right' should either have:

- a) Continued to the date of application; or
- b) Ceased not less than two years prior to the date of the application; or
- c) Ceased prior to 1st April 2007, but the application has been made within 5 years from the date at which use 'as of right' ceased.

50. In this case, use of the land ceased in February 2007 when the fencing was put up. The application is dated 10th April 2008.

51. Therefore, the application would fall within the third criterion (with use 'as of right' ceasing prior to 1st April 2007). Since the application has been made within five years from the date at which use 'as of right' ceased, this test has been met.

Conclusion

52. As was noted by the Court of Appeal in *Steed*¹⁴, '*it is no trivial matter for a landowner to have land, whether in public or in private ownership, registered as a town green... [the relevant legal tests] must be properly and strictly proved*'. In order for the application to succeed, it is vital that each and every element of the legal tests set out in section 15 of the Commons Act 2006 be proved.

53. In this case, it has been shown that the use of the land by the local residents has been pursuant to a licence agreement between the landowner and the Council which expressly provided for such use for at least part, if not all, of the relevant twenty year period. There is also evidence that the residents of the Fountain Walk estate have paid for the upkeep of the land as part of their rental payments to the Council. As a result, use of the land cannot be said to have been 'as of right'.

54. It is therefore concluded that the legal tests concerning the registration of the land as a Town or Village Green (as set out above) have not been met.

Recommendations

55. I recommend that the County Council informs the applicant that the application to register the land at Fountain Walk, Northfleet has not been accepted.

Accountable Officer:

Dr. Linda Davies – Tel: 01622 221500 or Email: linda.davies@kent.gov.uk

Case Officer:

Miss. Melanie McNeir – Tel: 01622 221511 or Email: melanie.mcneir@kent.gov.uk

The main file is available for viewing on request at the Countryside Access Service, Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

Background documents

APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

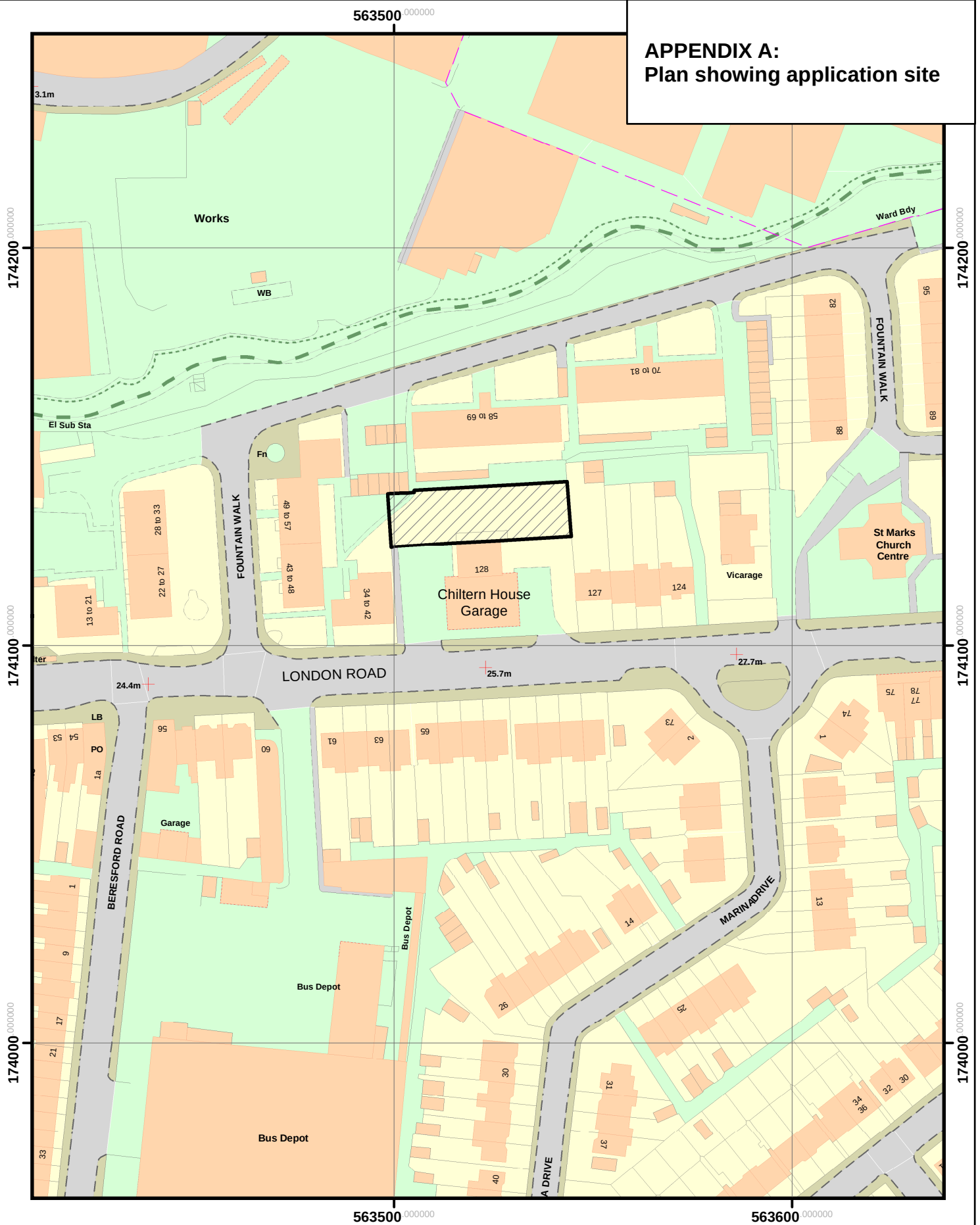
APPENDIX C – Table summarising user evidence

APPENDIX D – Copy of the licence agreement dated 24th March 1968

APPENDIX E – Map showing ward boundaries

¹⁴ *R v Suffolk County Council, ex parte Steed and another* [1997] 1 EGLR 131 at 134

APPENDIX A:
Plan showing application site



FORM 44

Commons Act 2006: Section 15

Application for the registration of land as a Town or Village Green

Official stamp of registration authority
indicating valid date of receipt:

COMMONS ACT 2006
KENT COUNTY COUNCIL
REGISTRATION AUTHORITY
16 JUN 2008

Application number:

602

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

1. Registration Authority

To the

KENT COUNTY COUNCIL

Note 1

Insert name of
registration
authority.

Note 2

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

2. Name and address of the applicant

Name:

MR. SIMON BAKER

Full postal address:

6 FOUNTAIN WALK
NORTHFLEET
KENT

Postcode DA11 9JY

Telephone number:

(incl. national dialling code)

01474 561295

Fax number:

(incl. national dialling code)

E-mail address:

3. Name and address of solicitor, if any

Name:

Firm:

Full postal address:

Post code

Telephone number:

(incl. national dialling code)

Fax number:

(incl. national dialling code)

E-mail address:

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

* Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**: ☐

If the application is made under **section 15(1)** of the Act, please **tick one** of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies: ☐

Section 15(3) applies: ☐

Section 15(4) applies: ☒

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

FEBRUARY 2007

If **section 15(6)*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

Only complete if the land is already registered as common land.

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

LAND BEHIND CHILTON HOUSE GARAGE

Location:

CHILTON HOUSE GARAGE
128 LONDON ROAD NORTHFLEET DANGLE

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

6. Locality or neighbourhood within a locality in respect of which the application is made

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

AREA OF LAND BETWEEN CHILTON HOUSE
GARAGE AND HOUSES OF FOUNTAIN WALK
(TO NORTH OF GARAGE)

Tick here if map attached: ☒

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

7. Justification for application to register the land as a town or village green

The Fountain Walk Council Estate was completed in 1969. The piece of land in question is an open grassed space bordered by trees. A licence agreement was made between Gravesend Borough Council and the Chevron Petroleum Company who owned the land at that time. There does not appear to have been any security of tenure although the Borough Council agreed to maintain the area and cut the grass. It was used by the residents 'as of right' from 1969 as an amenity area. Children were able to play there in safety, benches were provided for older residents & others used the area for recreation. These arrangements continued when the land was acquired by Giltan House Garage. In February 2007 the owner enclosed the entire area with a high fence so that it was no longer accessible to the residents. A number of residents will testify to the long term use of this piece of ground.

Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

CHILTON HOUSE GARAGE
128 LONDON ROAD
NORTHFLEET
KENT
DA11 9LE

9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land

Note 9

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

10. Supporting documentation

Note 10

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

X

Note 11

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

11. Any other information relating to the application

The garage owner fenced the village green off with no prior notification although he was supposed to give 28 days notice as the residents thought the land belonged to the council because the residents have been paying to maintain it for 39 years. In that time the land collapsed twice and the council re-filled and grass both times. The council erected a public notice saying no ball games allowed therefore being used as a play area

Date:

10-06-2008

Signatures:



PD.

REMINDER TO APPLICANT

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

Also a dog bin was placed on the same notice therefore being used by dog walkers. Residents requested the council supply landscaping which the council supplied from the gardening fund which the residents pay into. A bench was donated from a prior resident to be placed on the village green after her death, unfortunately it was vandalised and taken away for repair but can't be replaced due to being fenced off.

At present the village green is being used to store part exchanged or used cars which is a great concern to residents as they are parked next to a petrol station and if they was to ~~catch~~ catch a light it would cause a great deal of damage to surrounding areas including the flats which have no easy means of escape. It used to be a safe place for children to play where parents could watch over them as it was secluded from the main road.

Chairman: 

Secretary: 

Block Rep: 

Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

¹ *Insert full name (and address if not given in the application form).*

I...S. BAKER.....¹ solemnly and sincerely declare as follows:—

² *Delete and adapt as necessary.*

1.² I am ((the person (one of the persons) who (has) (have) signed the foregoing application)) ((the solicitor to (the applicant) (³ one of the applicants))).

³ *Insert name if applicable*

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

Complete only in the case of voluntary registration (strike through if this is not relevant)

4.⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

Cont/

been received and are exhibited with this declaration; or
(iii) where no such consents are required, a declaration to that effect.

And I make this solemn declaration, conscientiously believing the
same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said



at 6 FOUNTAIN WALK
NORTHFLEET, KENT DA11 9DY

this 2nd day of JUNE 2008

Signature of Declarant

Before me *

Signature:



JAMES JOHN LOUGHLIN

Address:

170 OLD ROAD WEST
GRAVESEND
KENT DA11 0LZ

Qualification:

JUSTICE OF THE PEACE.

* The statutory declaration must be made before a justice of the peace, practising
solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the
application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit

Scale: 1:1250
Tuesday, 3 June 2008
15:53:46
Initials

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110 SIMON BAKER (SWIND AFFAIRS)

AREA TO BE LIT AS VILLAGE GREEN

* ALAN PARKER - LETTER RECEIVED FROM RESIDENT

<http://kentview.kent.gov.uk/kentview/printpage.asp?title=1&testmap&scale=1250&user=initials&orientation=landscape&mapsize=A303/06/2008 15:57:14>



APPENDIX C:
Summary of user evidence

Name	Type of evidence*	Address	Period of use	Comments
Mr. S. Baker	LS	6 Fountain Walk	2003 – 2007 (4 years)	Children used the green for playing games and for learning to ride bicycles. The land has been used by the residents of Fountain Walk for many years for relaxation and enjoyment. The Council kept the land tidy and mowed the grass.
Mrs. V. Bartholomew	UEF and LS	73 Fountain Walk	1970 – 2007 (37 years)	Used the land daily as a cut-through to shops and Post Office until it was fenced off. The land was always kept in good condition.
Mrs. R. Cook	UEF	16 Fountain Walk	1978 – 2007 (29 years)	Used the land weekly as a communal area until it was fenced off in 2007. Held residents meetings in the summer.
Mrs. J. Dalley	UEF and LS	78 Fountain Walk	1984 – 2007 (23 years)	Used the land daily for recreation and as a cut-through to the Post Office until it was fenced off in February 2007.
Mr. B. Eldridge	UEF and LS	61 Fountain Walk	2001 – 2007 (6 years)	Used daily for tending the garden, walking/playing with dog, sitting on the bench. Residents have paid the Council for the upkeep of the land (mowing grass etc).
Ms. D. Golding	UEF	67 Fountain Walk	2003 – 2007 (4 years)	In February 2007, fence was put up around the land preventing use. Used daily for playing with children, socialising with neighbours, picnics.
Mr. S. Hurstfield	LS	74 Fountain Walk	1980 – 2007 (27 years)	Land has been in common usage by the residents of Fountain Walk for over 30 years. It has been used recreationally by the residents, as a children's play area and as a meeting place. The residents have paid for the upkeep of the area as part of the rent paid for the housing.
Mrs. M. Lindley	UEF	29 Fountain Walk	2004 – 2007 (3 years)	Used daily until fence was put up in 2007 for socialising, short-cut to shops, and playing with children.
Miss. T. Lindley	UEF	29 Fountain Walk	2004 – 2007 (3 years)	Used for gardening and socialising
Mrs. A. Martin	UEF and LS	80 Fountain Walk	1967 – 2007 (40 years)	Used daily for walking to shops.
Mrs. P. Millins	UEF and LS	14 Fountain Walk	1990 – 2007 (17 years)	Used daily for socialising, dog-walking, relaxing, exercising and playing with children. Recalls 'no ball games' notices in 1997 and 2003.

***UEF = user evidence form**
LS = letter of support

APPENDIX D:

Copy of licence agreement
Service Station
1245

To:- Chevron Oil (U.K.) Limited

re: Land at rear of premises known
as Chilton House, Service Station,
128 London Road, Northfleet in
the County of Kent

IN CONSIDERATION of your allowing us to use the land
shown edged red on the plan annexed hereto for the purpose
of *an Open Space* from and including the date hereof
We The Urban District Council of Northfleet of The Town Hall,
Northfleet in the County of Kent acting by our Clerk
Frank
Drewery *A. Bunkall*

HEREBY ACKNOWLEDGE 1. That we shall be using the
land as Licensees only and that no tenancy or agreement
for a tenancy of any kind exists or shall be created or
come into existence between us
2. The Licence shall be revocable at any time by you or
ourselves
3. During the period of the Licence we will pay all
outgoings in respect of the land
4. The Licence is personal to us and we shall not be
entitled to assign the benefit of it or grant sub-licences
5. Nothing herein contained shall confer on us any right
to exclusive occupation of the land and you or your
agents or licensees will have the right to enter upon the
land at all times and for any purpose
6. We will use the land for the purpose of *an* *Open Space*
only
7. We will quit the land forthwith on demand and leave
the same in as good a condition as the same is now in
8. We will pay your legal costs in connection with the
preparation and completion of the Licence

Dated *26th* March 1968

(*Sgd*)

Drewery A Bunkall
Signed..... stamp
Clerk of the Council
for and on behalf of the
Urban District Council of

I hereby certify that this is a true copy of
the Original

Drewery A Bunkall
Clerk and Solicitor
Northfleet Urban District Council

Appendix E:
Plan showing Borough Council
Ward boundaries

